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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRIAN FLETCHER,)	Case No. CV 10-3250-DSF (DTB)
Plaintiff,)	
vs.)	ORDER ACCEPTING FINDINGS,
)	CONCLUSIONS AND
C/O J.R. OLMEDA, et al.,)	RECOMMENDATIONS OF UNITED
Defendants.)	STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Second Amended Complaint, all the records and files herein, and the Superseding Report and Recommendation of the United States Magistrate Judge. No objections to the Superseding Report and Recommendation have been filed herein. The Court concurs with and accepts the findings, conclusions and recommendations of the Magistrate Judge.

IT THEREFORE IS ORDERED as follows: That defendant's Motion to Dismiss is GRANTED as to Claim 1 on the grounds that plaintiff has failed to state a claim under either the Eighth or Fourteenth Amendments, and that this claim is hereby dismissed with leave to amend; defendant's Motion to Dismiss is GRANTED as to Claim 2 on the ground that plaintiff has failed to exhaust his available administrative remedies, and that this claim is hereby dismissed without leave to

1 amend; and that if plaintiff still desires to pursue this action, he is ORDERED to file
2 a Third Amended Complaint within thirty (30) days of the date of this Order.
3 Plaintiff is admonished that, if he fails to timely file a Third Amended Complaint, the
4 action will be subject to dismissal with prejudice on the grounds set forth in the
5 Superseding Report & Recommendation and for failure to diligently prosecute.

6
7 8/1/12

8 Dated: _____



9 DALE S. FISCHER
UNITED STATES DISTRICT JUDGE